

**A SUBSTITUTE ORDINANCE
BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES**

AN ORDINANCE TO ADOPT A NEW CODE OF ORDINANCE SECTION 158-4 THROUGH SECTION 158-11 SO AS TO PROVIDE FOR THE REMOVAL OF OVERGROWN WEEDS AND OTHER JUNK, TRASH AND DEBRIS ON ABANDONED PROPERTY BY THE CITY AFTER NOTICE AND FAILURE OF THE PROPERTY OWNER TO ABATE THE VIOLATION OR OTHERWISE REQUEST ADJUDICATION IN ATLANTA MUNICIPAL COURT; TO AUTHORIZE THE COLLECTION OF ABATEMENT COSTS THROUGH BILLING AND LIENING, IF NECESSARY; TO AUTHORIZE THE DEPARTMENT OF PUBLIC WORKS TO CARRY OUT SUCH ABATEMENT; AND FOR OTHER PURPOSES.

WHEREAS, uncontrolled weed growth and collection of junk, trash and debris on properties within the City of Atlanta is unhealthy and undesirable in that it provides harborage for rodents and insects, lowers property values, and constitutes a public nuisance; and

WHEREAS, abatement of such public nuisance is particularly difficult where the property is abandoned and no responsible party can be located upon reasonable diligence for notice and/or citation; and

WHEREAS, a more expedited process is needed to abate such public nuisance whereby the city may cause such abatement in cases where the owner fails, after posted and mailed notice, to abate or otherwise request adjudication of the violation in Atlanta Municipal Court; and

WHEREAS, the Department of Public Works has equipment and personnel to carry out the abatement.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS:

Section 1: Sec. 158-4 of the Code of Ordinances is repealed in its entirety.

Section 2: A new Sec. 158-4 of the Code of Ordinances is created and shall read as follows:

Sec. 158-4. Weed control.

It is found and declared that uncontrolled weed growth on properties within the City of Atlanta is unhealthy and undesirable in that it provides harborage for rodents and insects, lowers property values, and constitutes a public nuisance.

Section 3: Sec. 158-4 through Sec. 158-11 of the Code of Ordinances, formerly reserved, shall read as follows:

Sec. 158-5. Definitions.

As used throughout this article, the term:

Abandoned property means any lot, tract, or parcel of unimproved or improved real estate that is unoccupied. It shall include any dwelling, building, structure, or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouse, improvement, and appurtenance belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. For the purposes of this section unoccupied shall be evidenced by notice of termination of service by a local utility provider, as well as visual observation by city personnel to include on site visits, or written communication attempts. The term shall expressly include, for means of amplification and not limitation, swimming pools and wells. Also as used in this chapter, the term shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Owner means the current owner of record as shown by the records of the tax commissioner and the deed records of the clerk of superior court for the current calendar year.

Vacant property means any lot, tract, or parcel of real estate that is unimproved. It shall not mean or include any farm, or any agricultural facility or use for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Weeds shall mean grass, kudzu, jimson, burdock, ragweed, thistle, cocklebur, dandelion and any unrestricted vegetative growths.

Sec. 158-6. Exemptions.

This section shall not apply to city, county, state or federal property or governmentally mandated buffers, corridors, wetlands, detention ponds, dams, farms, natural or landscape areas, lakes, medians, etc. Further, this article shall not apply to utility easements or rights-of-way, or tracts of property (under single ownership) 40,000 square feet or larger unless they are within a platted subdivision.

Sec. 158-7. Prohibited.

It shall be unlawful for the owner of any property as defined in this section to permit weeds to obtain a height exceeding 12 inches on at least ten percent of the size of the property tract or 35 percent of the pervious surface, whichever is greater, unless exempted as described in this section.

Sec. 158-8. Notice to remove.

- (a) If any code enforcement officer has reason to believe that a violation as described and declared in this section exists, the owner of the offending property shall be notified and requested to cause the condition to be remedied. The notice shall be presented by both a physical posting on the property in the name of the property owner and by certified mail or

personal delivery to the owner or owners as their names and addresses are shown on the tax records of the county. Notice shall be deemed complete and sufficient when so physically posted and personally delivered or mailed.

(b) The required notice shall contain the following:

- (1) Name(s) and address(es) of the owner(s) of the property, according to the public records of Fulton County, Georgia or DeKalb County, Georgia as applicable;
- (2) Location of the property on which the violation exists;
- (3) A statement by the code enforcement officer that the office of code enforcement has reason to believe that a violation of the above section(s) has been determined to exist on the property, which violation constitutes a public nuisance;
- (4) A description of the condition which causes the property to be in violation;
- (5) A requirement that the record owner of the property remedy the violation within 20 calendar days from the date of the notice, failing which the city will remedy the condition and assess against the record title owner of the parcel of land all the costs thereof plus an administrative charge;
- (6) A statement that, if the costs and administrative charge are not paid within 30 calendar days of invoice date, a lien will be placed on the property;
- (7) A schedule of the charges which may be assessed against the record owner if the city has to remedy the violation;
- (8) An estimate of the total cost, based on the schedule of charges, if the violation is remedied by the city. Such estimate is not to be interpreted or construed as the final cost which may be assessed, but only a good-faith approximation of such cost. The final assessable cost may be greater or lesser than the estimate; and
- (9) A statement that the record owner of the property may, within 20 calendar days from the date of the notice, contest the notice by making a written request that charges and summons issue, as contemplated by Sec. 18 of the Atlanta Housing Code and a hearing occur before the Atlanta Municipal Court for the purpose of showing that the cited condition constitutes a violation.

(c) Within 20 calendar days from the date of the notice, the owner of the property may contest the notice by making a written request to the code enforcement officer that charges and summons issue, as contemplated by Sec. 18 of Atlanta Housing Code and that a hearing occur before the Atlanta Municipal Court for the purpose of showing that the noticed condition constitutes a violation. Thereafter, the matter shall proceed in the manner provided for by Sec. 18 of the Housing Code.

Sec. 158-9. Removal by city.

If after 20 calendar days from the date of the notice no hearing has been requested and the condition described in the notice has not been remedied, the code enforcement officer or his/her designee shall cause the condition to be remedied by the city at the expense of the property owner. Remedy of such condition shall also include the removal of any junk, trash and debris also found on the abandoned property. If the Atlanta Municipal Court finds a violation to exist, the code enforcement officer or his/her designee may cause the condition to be remedied by the

city at the expense of the property owner after 72 hours unless the Atlanta Municipal Court directs otherwise.

Sec. 158-10. Collection of costs and records; secured property.

Upon failure to comply after proper notice, the code enforcement officer shall certify to the director of finance the expense incurred in remedying the condition whereupon such expense plus any administrative penalty as provided in the following section, shall become payable within 30 calendar days, after which a special assessment lien and charge shall be attached to the property, which shall be payable with interest at the rate of eight percent per annum from the date of such certification until paid. Such lien shall be in favor of the City of Atlanta, and may be satisfied at any time by payment thereof including accrued interest. Notice of such lien shall be filed in the office of the clerk of the superior court and recorded among the public records of Fulton County, Georgia or DeKalb County, Georgia as applicable.

Sec. 158-11. Administrative charge; administrative penalty.

- (a) In addition to the actual cost of remedying the violation noticed under the above sections, the city, in lieu of performing the services internally, may assess a charge to cover expenses incurred in securing and monitoring the services of a private contractor to remedy the violation.
- (b) If a second notice is issued against the same owner within 12 months from the date of the first notice, an administrative penalty of \$250.00 shall additionally be assessed at the time of the second notice. If a third notice is issued against the same owner within 12 months from the date of the first notice, an administrative penalty of \$500.00 shall additionally be assessed at the time of the third notice. Violations of this article may be referred to the city attorney for appropriate legal action including, but not limited to, injunctive relief, in addition to enforcement as provided in this chapter.

Section 4: The Department of Public Works shall be authorized to carry out the removal by the city as contemplated in Sec. 158-9 herein.